

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte EDWARD A. SWINK,  
CLAYTON M. SMITH,  
CARL L. MURPHY  
and RICK LAVELOCK

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Appeal No. 2002-0492  
Application 09/348,141

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ON BRIEF

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Before FRANKFORT, MCQUADE, and BAHR, Administrative Patent Judges.

MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Edward A. Swink et al. appeal from the final rejection of claim 16. Claims 1, 8 through 12, 14 and 15, the only other claims pending in the application, stand allowed.

THE INVENTION

The appellants' invention relates to "a folding ramp that provides access between two surfaces of different heights, such

as from a truck or dock surface to the ground surface”

(specification, page 1). Appealed claim 16 reads as follows:

16. A folding portable ramp, comprising:  
a first platform section having first and second ends;  
a second platform section having first and second ends, said first end of said second section pivotally coupled to said second end of said first section, said second section adapted to be pivoted relative to said first section between a storage position wherein said second section overlies said first section and an extended position, wherein said first and second sections form an obtuse angle; and  
a leg support structure pivotally coupled to at least one of said second end of said first section and said first end of said second section, said leg support structure adapted to be pivoted between a first position, wherein said leg support structure overlies said second section when said section is in said storage position, and a second position wherein said leg support structure extends outwardly away from said first and second sections;  
and wherein said leg support structure includes a latching mechanism that releasably maintains said leg support structure in said second position.

#### THE REJECTION

Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,795,304 to Dudley.

Attention is directed to the appellants' brief (Paper No. 10) and to the examiner's answer (Paper No. 11) for the respective positions of the appellants and the examiner with regard to the merits of this rejection.

### DISCUSSION

Dudley discloses a pickup truck loading ramp 20 comprising a forward panel 22 having its forward end pivotally connected at 32 to the rear bumper 18 of the pickup and its sides slidably mounted to the tailgate of the pickup by sleeves 34, a rearward panel 24 having its forward end hingedly connected to the rearward end of the forward panel, and a pair of posts 46 pivotally connected to the panels adjacent their hinged connection. As described by Dudley,

[i]n operation, assuming the ramp is in its folded stored position adjacent the rearward limit of the closed pickup tailgate 16 (FIG. 2) [, the] tailgate latch, not shown, is manually released and the tailgate lowered to the position of FIG. 1 with the rearward ramp panel 24 hingedly pivoted rearwardly so that the rearward limit of its beams 40 and 42 contact[s] the surface of the earth rearwardly of the pickup. Simultaneously, with the lowering action of the tailgate, the forward panel supporting sleeve 34 slides along the beam box-channels 26' so that the plane of the forward ramp panel 22 describes a plane substantially parallel with the plane of the lowered tailgate. The ramp posts 46 are manually positioned vertically (FIG. 1). The ramp 20 is then in position for loading a wheeled vehicle, not shown, into or out of the pickup truck bed 10.

After utilizing the ramp for loading or unloading it is moved to a stored position by simply pivoting the forward panel vertically about its hinged connection with the bumper while simultaneously the tailgate is pivoting forwardly to its closed position wherein the sleeve 34 again slides along the beam box members 26 and the rearward ramp panel 24 pivot[s] to a vertical juxtaposed position with the forward ramp panel 22 [column 2, line 65, through column 3, line 12].

It is not disputed that Dudley meets all of the limitations in claim 16 except for the one requiring the leg support structure to include "a latching mechanism that releasably maintains said leg support structure in said second position." As conceded by the examiner, Dudley "is silent regarding a latching mechanism on the leg support structure [posts 46]" (answer, page 3). Nonetheless, the examiner submits that

[i]t is common to latch legs in an extended position in order to prevent collapse (folding tables, for example) and it would have been obvious to one of ordinary skill at the time the invention was made to have used a latch on the leg support structure to releasably maintain the leg support structure in the second position for this purpose [answer, page 3].

Of this proposed modification of the Dudley ramp, the appellants argue that

it is untenable to look to the teachings of folding tables and other unrelated devices. In order to modify a reference, and [in] combining references, there must be motivation. The broad desire to lock a leg in vastly unrelated fields [does] not provide this motivation. Since the Dudley patent admittedly does not provide the requisite motivation, and the broad desire to lock a leg in other unrelated contexts is insufficient, applicants submit that the modification is improper [brief, pages 7 and 8].

A conclusion of obviousness may be based on common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular

reference. In re Bozek, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969). In the present case, the appellants have not challenged, and in fact appear to acquiesce to, the examiner's finding that the latching of hinged legs, such as found in a folding table, in their operative position to prevent collapse was a generally known and conventional expedient at the time the appellants' invention was made. Although the examiner's folding table example is somewhat removed from ramps of the sort at issue here, it is not unreasonable in cases involving relatively simple everyday-type mechanical concepts to permit inquiry into other areas where one of even limited technical skill would be aware that similar problems exist. In re Heldt, 433 F.2d 808, 812, 167 USPQ 676, 679 (CCPA 1970). A person of ordinary skill in the art would have readily appreciated, as a simple matter of common sense, that Dudley's unlatched leg support structure has a certain degree of instability, and that this problem would be diminished by a conventional leg latching mechanism of the type alluded to by the examiner. This recognition would have furnished the artisan with ample suggestion or motivation to incorporate such a mechanism into the Dudley ramp, thereby arriving at the subject matter recited in claim 16.

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Hence, the teachings of Dudley considered in conjunction with the unchallenged common knowledge noted by the examiner justify the examiner's conclusion that the differences between the subject matter recited in claim 16 and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.

Accordingly, we shall sustain the standing 35 U.S.C. § 103(a) rejection of claim 16.

SUMMARY

The decision of the examiner to reject claim 16 is affirmed.

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No time period for taking any subsequent action in  
connection with this appeal may be extended under 37 CFR  
§ 1.136(a).

AFFIRMED

CHARLES E. FRANKFORT	)	
Administrative Patent Judge	)	
	)	
	)	BOARD OF PATENT
	)	
	)	APPEALS AND
JOHN P. MCQUADE	)	
Administrative Patent Judge	)	INTERFERENCES
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JENNIFER D. BAHR	)	
Administrative Patent Judge	)	

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